

Political Subdivisions Act

- 1.1 Political Subdivisions Act - Tulalip Tribes of the Tulalip Reservation, Subdivisions Authorized
- 1.2 Purpose, Constitutional Authority
- 1.3 Privileges and Immunities
- 1.4 Tribal Taxation
- 1.5 Organization
- 1.6 Powers, Duration
- 1.7 Lands
- 1.8 Tribal Courts - Jurisdiction, Enforcement of Act
- 1.9 Agent
- 1.10 Assets
- 1.11 Audits
- 1.12 Annual Report
- 1.13 Contracts and Officers
- 1.14 Bonding
- 1.15 Employment

- 2.1 Creation – by Resolution – Process
- 2.2 Filing Notice of Proposed Actions with or by Board
- 2.3 Notice of Intentions – Contents
- 2.4 Objectives of the Board
- 2.5 Factors to Be Considered by Board
- 2.6 Review of Proposed Actions by Board – Procedure
- 2.7 Hearings – Notice – Record – Subpoenas – Decision of Board
- 2.8 Decision of Board Not to Affect Existing Franchise, Permits, Codes, Ordinances, Etc. for Ten Years
- 2.9 Definition – Board of Directors
- 2.10 Suit by Municipal Corporation or District

Political Subdivisions Act

1.1 Political Subdivisions Act - Tulalip Tribes of the Tulalip Reservation, Subdivisions

Authorized. This Ordinance shall be known as the Tulalip Tribal Political Subdivisions Act. There are hereby authorized to be created by duly adopted resolutions of the Board of Directors (Board) of the Tulalip Tribes of the Tulalip Reservation (Tribes), chartered subdivisions of the Tribes which will be arms, political subdivisions, municipal corporations, agencies and/or instrumentalities of the Tulalip Tribal Government. The subdivisions organized and created by charters under this Act shall be subject to the Constitution and Bylaws of the Tulalip Tribes, Tribal law and this Act. The right to repeal, alter or amend this Act at any time is expressly reserved to the Board. Any such charters, repealers, alternations or amendments shall be reviewed by the Secretary of the Interior when required by a provision of the Constitution of the Tulalip Tribes.

1.2 Purpose, Constitutional Authority

- A. Indian tribes have been consistently recognized throughout the history of the United States of America to retain as governmental powers, where consistent with the trusteeship of the United States, all powers necessary to utilize their undivided resources for the general welfare and economic benefit of the Tribes and the citizens of the Reservation and it has been further recognized that Tribes may organize political subdivisions or municipal corporations to do so. This Act is intended to exercise and implement Tulalip Tribal governmental, corporate, economic, and commercial powers, which are hereby declared by the Tulalip Tribes to be of the same nature as all other Tribal powers, pursuant to the provisions of the Constitution of the Tribes.
- B. The Constitution of the Tribes in its Preamble, in Article VI, Sec.1., H. K., M., and V., and in Article VIII, Sec. 2., 11 and 12; provides for the exercise of governmental, corporate, economic and commercial powers by the Tribes and its Board of Directors to further the advancement of the Tulalip Indian people.
- C. The Tribes and its members have endured a century of deprivation and oppression. This fact has been recognized by the Congress of the United State through numerous Acts intended to assist in the development of Indian and Reservation resources. There is now a need and an opportunity to organize and develop Tulalip political, natural resources and human resources to provide a standard of living, local municipal government and education to all Tribal members equal to that of all citizens of the United States. The Tribes adopt this Act in order to meet the following independent goals:
 - 1. carry out a Tribal constitutional mandate;
 - 2. develop Tribal government to obtain the highest standard of local government possible on the Reservation;
 - 3. to raise the standard of living, education and general welfare for all Tribal members and all citizens of the Reservation;
 - 4. to enter into and take advantage of governmental, business and commercial opportunities available to the Tribes;
 - 5. to modernize Tribal government to take advantage of the powers and flexibility of political subdivision and municipal government on the Tulalip Reservation.
- D. To accomplish the goals set out in "C" above, this Ordinance is designed to further the

governmental development of the Tulalip Tribes, as follows:

1. To provide for the chartering of political subdivisions of the Tulalip Tribes within the Tulalip Reservation including but not limited to schools, agencies, municipal corporations, port districts, trade zones, health districts, and cultural or religious zones.
 2. To provide for localized government appropriate to the diverse lands, waters and populations of the Tulalip Reservation.
 3. To provide employment and education for Native American people within the Tulalip Reservation.
- E. To accomplish the goals set out in "C" and "D", above, the Board hereby finds that for purposes of efficiency and wise stewardship, it is necessary for the development of Tribal certain territories of the Tribes, where boundaries shall be set out in the charters of the political subdivisions, to be divided from other governmental territories of the Tribes and placed within the responsibility of persons or entities different from the Board, so that governmental development may take place within, and be based upon, the sphere of local government rather than within the sphere of overall Tribal governmental concerns.
- F. The Tribes for many years have operated governmental programs to protect the general health, safety and welfare of Tribal members and to protect the health and security of all persons on and near the Tulalip Reservation. To support these programs, the Tribes have depended upon surplus revenues from the sale and utilization of Tribal natural resources and from tribal business enterprises. It is intended that the corporations created under this Act will increase the revenues to the Tribes municipal by taxing those who consume services on the Reservation. Such surplus and additional revenues may be used to fund governmental programs and for the protection and security of Tribal members and residents of the Reservation.

1.3 Privileges and Immunities. The political subdivisions established by charter and boundary description under this Act shall be considered to be governmental agencies and instrumentalities of the Tribes; and their officers and employees considered officers and employees of the Tribes, notwithstanding the fact that their work rules and conditions may differ from those of other Tribal officers and employees; carrying out responsibilities imposed upon the Board for advancement of the Tribes and their members by the Constitution and Bylaws of the Tulalip Tribes of the Tulalip Reservation. Such political subdivisions, their officers and employees shall, therefore, be entitled to all of the privileges and immunities enjoyed by the Tribes; including but not limited to, immunities from suit in Tribal, federal and state courts, and from federal and state taxation, or regulation, except as specifically set out in the charters granted pursuant to this Act.

1.4 Tribal taxation. All activities of political subdivisions created under this Act shall be subject to taxation by the Tribes.

1.5 Organization. The Board may, by resolution, appoint the officers and representatives of political subdivisions created pursuant to this Act. The election or appointment of officers and the appointment or the election of subsequent officers shall be governed by this Act and by the provisions of a charter granted under this Act by the Board to the political subdivision.

1.6 Powers, Duration. The powers of political subdivisions created pursuant to this Act shall

be set out in the charters of the corporations and may include, but shall not be limited to, all standard powers of municipal corporations, certain designated sovereign powers and the powers of annexation and eminent domain; provided, no power shall be granted or exercised which shall be beyond those powers provided to the Tribes in the Constitution and Bylaws of the Tribes or in federal law. The duration of subdivisions created under this Act shall be perpetual unless a different duration is stated in the charter.

1.7 Lands. Real property acquired by a political subdivision created pursuant to this Act may be transferred, where permitted by the federal law governing the ability of the Tribes to make such a transfer, to the ownership of the United States in trust for the Tribes and shall be by appropriate, lawful transfer placed into the control of the political subdivision by the Tribes.

1.8 Tribal Courts - Jurisdiction, Enforcement of Act. Notwithstanding the immunity from suit conveyed upon political subdivisions created pursuant to this Act; the provisions of this Act, other Tribal laws and ordinances, or Tribal enactments pursuant to this Act, may be enforced against any political subdivision or other entity created under this Act and its employees or officers; by an action in law or equity in the Tribal Courts of the Tribes, when brought by a Constitutional quorum of the Board.

1.9 Agent. All political subdivisions created under this Act shall publicly designate and maintain a registered agent for service of documents on the Tulalip Indian Reservation.

1.10 Assets. The assets of each and every political subdivision created under this Act when specifically granted to the political subdivision by the Tribes, or when obtained through a standard acquisition by the political subdivision shall be separate and distinct from those of the Tribes. In no case shall Tribal assets not specifically pledged to the political subdivision in a manner permitted by law be considered assets of a political subdivision created under this Act for any purpose.

1.11 Audits. The governing body of every municipal corporation political subdivision chartered under this Act shall require that an annual audit of the entity by an outside auditor be conducted and made available to the Board within a reasonable time of completion of the audit. The Board, by duly adopted resolution, may at any time require that any political subdivision created under this Act be audited by an independent auditor hired by the Board and shall have the absolute right to require access to all Corporate documents necessary for such an audit.

1.12 Annual Report. The governing body and management of each political subdivision created pursuant to this Act shall hold at least one open meeting per year, on ten days public notice, within the boundaries of the Tulalip Indian Reservation, at which the governing body shall answer any questions asked of them by the Board. Each governing body shall also file a full report of the financial activities of the political subdivision with the Board on an annual basis.

1.13 Contracts with Officers. Notwithstanding any other provision of this Act or charters or articles of in political subdivision granted pursuant to provisions of this Act, all directors or officers of any political subdivision chartered under this Act, and any firm in which said directors or officers hold office, or are shareholders or owners, shall be disqualified from dealing or contracting with Tribal political subdivisions chartered under this Act, or subsidiaries thereof, as either a vendor, purchaser, or otherwise; and such contracts or transactions shall be void, unless such contract or transaction has been fully disclosed to, and approved by, the Board; provided, this section shall not apply to the employment contracts of persons employed by a

political subdivision or a subsidiary thereof.

1.14 Bonding. Notwithstanding any other provision of this Act, or charters or articles of incorporation (and supplementing bylaws) granted pursuant to provisions of this Act; all officers, contractors and key employees of any political subdivision chartered or licensed under this Act who are:

- A. authorized, either individually or in conjunction with others, to expend funds on behalf of the governmental corporation or any of its subsidiaries or agencies; or
- B. responsible for accounting for the funds of a political subdivision or any of its subsidiaries or agencies; shall at all times be bonded or insured by the corporation to protect the assets of the political subdivision in an amount consistent with the financial responsibilities of the director, officer, contractor or employee. Such bonds or policies of insurance shall be obtained at the expense of the political subdivision or the contractor and must be approved by the corporate governing body before the officer, contractor or employee is permitted to expend or account for funds.

No director, officer, contractor, or employee of a political subdivision shall have authority under this Ordinance, or a charter granted under this Ordinance, to expend or account for corporate funds unless bonded or insured in compliance with this section. Any signature of a corporate director, officer, contractor or employee of a political subdivision purporting to authorize expenditure of corporate funds shall be void if at the time the signature is given the director, officer, contractor, or employee is not bonded or insured as required by this section.

1.15 Employment. All political subdivisions chartered pursuant to this Act shall be subject to the preference laws of the Tribes and of the United States governing the employment of Native American workers on or near the Tulalip Indian Reservation.

2.1 Creation — By Resolution — Process

- A. The Board may create by Ordinance, pursuant to authority granted by this Ordinance and Article VI., Sec. 1, paragraphs L. and S. of the Constitution and Bylaws of the Tulalip Tribes, any of the following entities which will be subject to the provisions of this Ordinance and to the provisions of a charter which shall be attached to the creating Ordinance and adopted by reference in the resolution creating the entity: any borough, village, town, city, municipal corporation, or special purpose district.
- B. The Board may by resolution or ordinance consolidate or expand any borough, village or special purpose district using the same form as set out in 2.1A above; or, dissolve by resolution any entity created under 2.1A above.
- C. The Board may, by a resolution ordinance setting forth with specificity the actions to be taken;
 - 1. Allow the assumption by any city or town of all or part of the assets, facilities, or indebtedness of a special purpose district which lies partially within such village, borough, city or town; or
 - 2. Allow the establishment of or change in the boundaries of a mutual water and sewer system or separate water or sewer system by a water-sewer district; or
 - 3. Allow the extension of permanent water or sewer service outside of its existing service area by a borough, village, city, town, or special purpose district. The service area of a borough, village, city, town, or special purpose district shall include all of the area within its corporate boundaries plus, (a) for extensions of water service, the area outside of the corporate boundaries which it is designated

to serve pursuant to a coordinated water system plan; and (b) for extensions of sewer service, the area outside of the corporate boundaries which it is designated to serve pursuant to a comprehensive sewerage plan.

4. Amend any charter granted under this Ordinance.

2.2 Filing Notice of Proposed Actions with or by Board. Whenever any of the following described actions are proposed within the Tulalip Reservation, the initiators of the action shall file a notice of intention with the Secretary of Board of Directors; PROVIDED, That when the initiator is the Board of Directors itself, no notice of intention need be filed. The Board shall within a reasonable time from the date of filing of the notice review proposed actions contained in the notice of intention pertaining to:

- A. The: (a) Creation, incorporation, or change in the boundary, of any borough, village, county, city, town, municipal corporation, or special purpose district; (b) consolidation of any borough, village, or special purpose district, but not including consolidation of cities and towns; or (c) dissolution or disincorporation of any borough, village, county, city, town, or special purpose district, except that a board may not review the dissolution or disincorporation of a special purpose district which was dissolved or disincorporated pursuant to the provisions of tribal law; or
- B. The assumption by any city or town of all or part of the assets, facilities, or indebtedness of a special purpose district which lies partially within such village, borough, city or town; or
- C. The establishment of or change in the boundaries of a mutual water and sewer system or separate water or sewer system by a water-sewer district; or
- D. Allow the extension of permanent water or sewer service outside of its existing service area by a borough, village, city, town, or special purpose district. The service area of a borough, village, city, town, or special purpose district shall include all of the area within its corporate boundaries plus, (a) for extensions of water service, the area outside of the corporate boundaries which it is designated to serve pursuant to a coordinated water system plan; and (b) for extensions of sewer service, the area outside of the corporate boundaries which it is designated to serve pursuant to a comprehensive sewerage plan.

2.3 Notice of Intentions — Contents. The notice of intention shall contain the following information:

- A. The nature of the action sought;
- B. A brief statement of the reasons for the proposed action with specific reference to objectives and factors set out in Sections 2.4 and 2.5;
- C. The legal description of the boundaries proposed to be created, abolished or changed by Board action: PROVIDED, That the legal description may be altered, with concurrence of the initiators of the proposed action, if a person designated by the Board of Directors as one who has expertise in legal descriptions makes a determination that the legal description is erroneous; and a map on which the boundaries proposed to be created, abolished or changed by such action are designated.

2.4 Objectives of the Board. The decisions of the Board regarding the incorporation of municipalities or districts under this Ordinance shall attempt to achieve the following objectives:

- A. Preservation of natural neighborhoods and communities;
- B. Use of physical boundaries, including but not limited to bodies of water, highway, and land contours;
- C. Creation and preservation of logical service areas;
- D. Prevention of abnormally irregular boundaries;

- E. Discouragement of multiple incorporations of small municipalities and encouragement of incorporation of municipalities in excess of ten thousand population in heavily populated urban areas;
- F. Dissolution of inactive special purpose districts;
- G. Adjustment of impractical boundaries;
- H. Incorporation as boroughs, villages, cities or towns or annexation to boroughs, villages, cities or towns of unincorporated areas which are urban in character; and
- I. Protection of agricultural and rural lands which are designated for long term productive agricultural and resource use by a comprehensive plan adopted by appropriate governmental entities including the Tribes.

2.5 Factors to Be Considered by Board. In reaching a decision on a proposal or an alternative, the Board shall consider the factors affecting such proposal, which shall include, but not be limited to the following:

- A. Population and territory; population density; land area and land uses; comprehensive plans and zoning, comprehensive plans and development regulations; applicable service agreements; applicable interlocal annexation agreements between a county and its cities; per capita assessed valuation; topography, natural boundaries and drainage basins, proximity to other populated areas; the existence and preservation of prime agricultural soils and productive agricultural uses; the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years; location and most desirable future location of community facilities;
- B. Municipal services; need for municipal services; effect of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; prospects of governmental services from other sources; probable future needs for such services and controls; probable effect of proposal or alternative on cost and adequacy of services and controls in area and adjacent area; the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units; and
- C. The effect of the proposal or alternative on adjacent areas on mutual economic and social interests, and on the local governmental structure of the area of the Reservation affected.

2.6 Review of Proposed Actions by Board — Procedure. The Board shall set a hearing to review and approve, disapprove, or modify any of the actions set forth in § 2.1 when any of the following shall occur:

- A. Any governmental unit affected, including the governmental unit for which the incorporation change or extension of permanent water or sewer service is proposed, requests a review hearing.
- B. A petition requesting review is filed with the Board and is signed by:
 - 1. Five percent of the registered voters residing within the area which is being considered for the proposed action; or
 - 2. An owner or owners of property consisting of five percent of the assessed valuation within such area requests a hearing;

If a period of forty-five days shall elapse, without a decision by the Board as set forth in this Section, when the Board's jurisdiction has been invoked as set forth in subsections A and B of this section, the proposed action shall be deemed approved.

If a hearing for review of a proposal is properly requested, the Board shall make a finding on the

record within one-hundred eighty days after the filing of such a request for review. If this period of one hundred eighty days shall elapse without the Board making a finding, the proposal shall be deemed approved unless the Board and the person, or persons who submitted the proposal agree to an extension of the one hundred eighty day period.

2.7 Hearings--Notice--Record--Subpoenas--Decision of Board

- A. When the review jurisdiction of the Board has been properly invoked under Section 2.6, the Board shall set the date, time and place for a public hearing on the proposal. The board shall give at least thirty days' advance written notice of the date, time and place of the hearing to the governing body of each governmental unit having jurisdiction within the boundaries of the territory proposed to be annexed, formed, incorporated, disincorporated, dissolved or consolidated, or within the boundaries of a special district assets and facilities are proposed to be assumed by a borough, village, city or town, and to the governing body of each city within three miles of the exterior boundaries of the area and to the proponent of the change. Notice shall also be given by publication in any public media of general circulation in the area of the proposed boundary change at least twice, the last publication of which shall be not less than five days prior to the date set for the public hearing. Notice shall also be posted five public places in the area affected for five days when the area is ten acres or more.
- B. A verbatim record shall be made of all testimony presented at the hearing and upon request and payment of the reasonable costs thereof, a copy of the transcript of the testimony shall be provided to any person or government unit.
- C. If a hearing is required, within forty days after the final decision on the proposal, the Board shall file a written decision, setting forth the reasons therefor, with the Secretary of the Board. The written decision shall indicate whether the proposed incorporation, direction or change is approved, rejected or modified and, if modified, the terms of the modification. The written decision need not include specific data on every factor required to be considered by the board, but shall indicate that all standards were given consideration. Dissenting members of the board shall have the right to have their written dissents included as part of the decision.

2.8 Decision of Board Not to Affect Existing Franchise, Permits, Codes, Ordinances, Etc. for Ten Years. For a period of ten years from the date of the final decision, no proceeding, approval, action, or decision on a proposal or an alternative shall be deemed to cancel any franchise or permit theretofore granted by the authorities governing the territory to be annexed, nor shall it be deemed to supersede the application as to any territory to be annexed, of such construction codes and ordinances (including but not limited to fire, electrical, and plumbing codes and ordinances) as shall have been adopted by the authorities governing the territory to be annexed and in force at the time of the decision.

2.9 Definition — Board of Directors. The term Board, Board of Directors, or Board of Directors of the Tulalip Tribes shall mean, for purposes of this Ordinance, the elected governing body of the Tulalip Tribes established by the Constitution and Bylaws of the Tulalip Tribes.

2.10 Suit By Municipal Corporation or District. Any municipal corporation or district established pursuant to this Ordinance may be permitted by charter to bring suit in its own name or in the name of the Tribes.